

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:	Confirmation No.: 8833
Peter Kassan, et al.	Date: February 8, 2010
Serial No.: 09/824,404	Group Art Unit: 2156
Filed: April 2, 2001	Examiner: Sana A. Al Hashemi
For: UNIVERSAL ASSET AND RELATIONSHIP MANAGER	

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VIA EFS-WEB

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

PETITION UNDER 37 C.F.R. §1.181  
TO WITHDRAW THE HOLDING OF ABANDONMENT

Sir:

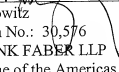
This is in response to the Notice of Abandonment mailed to the undersigned on January 5, 2010 in connection with the above-identified patent application. Pursuant to M.P.E.P. §706.07(h)(XI)(A)(copy enclosed), the undersigned respectfully petitions for withdrawal of the holding of abandonment on the grounds that a Request for Continued Examination (RCE), Amendment and the required fee of \$405, in response to the Decision on Appeal mailed to the undersigned on October 28, 2009, were timely filed via EFS-WEB on December 28, 2009. The RCE, Amendment and required fee of \$405 were submitted to the U.S. Patent and Trademark Office within two months of the Board of Patent Appeals and Interference's Decision mailed to the undersigned on October 28, 2009. Enclosed is a copy of the Electronic Acknowledgement Receipt, which indicates that the RCE, Amendment and credit card payment for the required filing fee (RAM Confirmation No. 4788) were submitted via EFS-WEB on December 28, 2009.

No fee is believed to be due as the RCE and Amendment were submitted within two months of the Board's Decision. However, in the event a fee is due or if any additional fee during the prosecution of this patent application is not paid, the Patent Office is authorized to charge the underpayment to Deposit Account No. 15-0700.

In light of the remarks above, the undersigned respectfully requests that the Notice of Abandonment be withdrawn and to reconsider the patent application.

THIS CORRESPONDENCE IS BEING  
SUBMITTED ELECTRONICALLY THROUGH  
THE PATENT AND TRADEMARK OFFICE EFS  
FILING SYSTEM ON February 8, 2010.

Respectfully submitted,



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MM:ck

**¶ 7.42.12 Application on Appeal, Request for Continued Examination under 37 CFR 1.114 Without Submission; Claim Allowed with Formal Matters Outstanding**

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application on [1] after appeal to the Board of Patent Appeals and Interferences. Therefore, the appeal has been withdrawn pursuant to 37 CFR 1.114. The request, however, lacks the submission required by 37 CFR 1.114. The proceedings as to the rejected claims are considered terminated, and the application will be passed to issue on allowed claim [2] provided the following formal matters are promptly corrected: [3]. Prosecution is otherwise closed. See MPEP § 1215.01. Applicant is required to make the necessary corrections addressing the outstanding formal matters within a shortened statutory period set to expire ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing date of this letter. Extensions of time may be granted under 37 CFR 1.136.

**Examiner Note:**

1. If a request for continued examination, including the fee, was filed after a Notice of Appeal or an appeal brief but before a decision on the appeal, and the request lacks the required submission, use this form paragraph to withdraw the appeal if there are allowed claims but outstanding formal matters need to be corrected.
2. In bracket 3, explain the formal matters which must be corrected.
3. To be eligible for continued examination under 37 CFR 1.114, the application must be a utility or plant application filed under 35 U.S.C. 111(a) on or after June 8, 1995, or an international application filed under 35 U.S.C. 363 on or after June 8, 1995. The RCE must be filed on or after May 29, 2000.

**¶ 7.42.13 Application on Appeal, Request for Continued Examination under 37 CFR 1.114 Without Fee; Claim Allowed**

A request for continued examination under 37 CFR 1.114, including a submission, was filed in this application on [1] after appeal to the Board of Patent Appeals and Interferences. Therefore, the appeal has been withdrawn pursuant to 37 CFR 1.114. The request, however, lacks the fee required by 37 CFR 1.17(e). Therefore, the submission has not been entered. See 37 CFR 1.116(c). Since the proceedings as to the rejected claims are considered terminated, the application will be passed to issue on allowed claim[2]. Claim[3] been canceled. See MPEP § 1215.01.

**Examiner Note:**

1. If a request for continued examination, including the submission, was filed after a Notice of Appeal or an appeal brief but before a decision on the appeal, and the request lacks the required fee, use this form paragraph to withdraw the appeal and pass the application to issue on the allowed claims.
2. In bracket 3, insert the claim number(s) of the claim(s) which has/have been canceled followed by either --has-- or --have--. Claims which have been indicated as containing allowable subject matter but are objected to as being dependent upon a rejected claim are to be considered as if they were rejected and therefore

are to be canceled along with the rejected claims. See MPEP § 1215.01.

3. This form paragraph should be used with the mailing of a Notice of Allowability.
4. To be eligible for continued examination under 37 CFR 1.114, the application must be a utility or plant application filed under 35 U.S.C. 111(a) on or after June 8, 1995, or an international application filed under 35 U.S.C. 363 on or after June 8, 1995. The RCE must be filed on or after May 29, 2000.

**¶ 7.42.14 Application on Appeal, Request for Continued Examination under 37 CFR 1.114 Without Fee; Claim Allowed With Formal Matters Outstanding**

A request for continued examination under 37 CFR 1.114, including a submission, was filed in this application on [1] after appeal to the Board of Patent Appeals and Interferences. Therefore, the appeal has been withdrawn pursuant to 37 CFR 1.114. The request, however, lacks the fee required by 37 CFR 1.17(e). Therefore, the submission has not been entered. See 37 CFR 1.116(c). The proceedings as to the rejected claims are considered terminated, and the application will be passed to issue on allowed claim[2] provided the following formal matters are promptly corrected: [3]. Prosecution is otherwise closed. See MPEP § 1215.01. Applicant is required to make the necessary corrections addressing the outstanding formal matters within a shortened statutory period set to expire ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing date of this letter. Extensions of time may be granted under 37 CFR 1.136.

**Examiner Note:**


1. If a request for continued examination, including a submission, was filed after a Notice of Appeal or an appeal brief but before a decision on the appeal, and the request lacks the fee required by 37 CFR 1.17(e), use this form paragraph to withdraw the appeal if there are allowed claims but outstanding formal matters need to be corrected.
2. In bracket 3, explain the formal matters that must be corrected.
3. To be eligible for continued examination under 37 CFR 1.114, the application must be a utility or plant application filed under 35 U.S.C. 111(a) on or after June 8, 1995, or an international application filed under 35 U.S.C. 363 on or after June 8, 1995. The RCE must be filed on or after May 29, 2000.

## **XI. AFTER DECISION BY THE BOARD**

### **A. Proper RCE After Board Decision**

The filing of an RCE (accompanied by the fee and a submission) after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit (Federal Circuit) or the commencement of a civil action in federal district court, will also result in the finality of the rejection or action being withdrawn and the submission being





considered. Generally, the time period for filing a notice of appeal to the Federal Circuit or for commencing a civil action is within two months of the Board's decision. See 37 CFR 1.304 and MPEP § 1216. Thus, an RCE filed within this two month time period and before the filing of a notice of appeal to the Federal Circuit or the commencement of a civil action would be timely filed: In addition to the *res judicata* effect of a Board of Patent Appeals and Interferences decision in an application (see MPEP § 706.03(w)), a Board decision in an application is the "law of the case," and is thus controlling in that application and any subsequent, related application. See MPEP § 1214.01 (where a new ground of rejection is entered by the Board of Patent Appeals and Interferences pursuant to 37 CFR 1.50(b), argument without either amendment of the claims so rejected or the submission of a showing of facts can only result in a final rejection of the claims, since the examiner is without authority to allow the claims unless amended or unless the rejection is overcome by a showing of facts not before the Board of Patent Appeals and Interferences). As such, a submission containing arguments without either amendment of the rejected claims or the submission of a showing of facts will not be effective to remove such rejection.

Form paragraph 7.42.07 should be used to notify applicant that the appeal has been withdrawn and prosecution has been reopened.

¶ 7.42.07 *Continued Examination under 37 CFR 1.114 after Board Decision but Before Further Appeal or Civil Action*

A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on [1] has been entered.

**Examiner Note:**

1. Use this form paragraph if a request for continued examination (RCE), including the fee set forth in 37 CFR 1.17(e) and a submission, was timely filed after a decision by the Board of Patent Appeals and Interferences but before further appeal or civil action. Generally, the time for filing a notice of appeal to the Federal Circuit or for commencing a civil action is within two months of the Board's decision. See MPEP § 1216 and 37 CFR 1.304.

2. A Board of Patent Appeals and Interferences decision in an application has *res judicata* effect and is the "law of the case" and is thus controlling in that application and any subsequent, related application. Therefore, a submission containing arguments without either an amendment of the rejected claims or the submission of a showing of facts will not be effective to remove such rejection. See MPEP § 706.03(w) and 1214.01.

3. To be eligible for continued examination under 37 CFR 1.114, the application must be a utility or plant application filed under 35 U.S.C. 111(a) on or after June 8, 1995, or an international application filed under 35 U.S.C. 363 on or after June 8, 1995. The RCE must be filed on or after May 29, 2000.

**B. Improper RCE After Board Decision**

If an RCE is filed after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Federal Circuit or the commencement of a civil action in federal district court, and the RCE was **not** accompanied by the fee and/or the submission, the examiner should notify the applicant that the RCE is improper by using form paragraph 7.42.16 set forth below. If the time for seeking court review has passed without such review being sought, the examiner should include the form paragraph with the mailing of a Notice of Allowability or a Notice of Abandonment depending on the status of the claims. See MPEP § 1214.06. If the time for seeking court review remains, the examiner should include the form paragraph on a PTOL-90. No time period should be set. If a submission is filed with the RCE, but the fee is missing, the examiner should also include a statement as to whether or not the submission has been entered. In general, such a submission should not be entered. If, however, the submission is an amendment that obviously places the application in condition for allowance, it should be entered with the approval of the supervisory patent examiner. See MPEP § 1214.07. Form paragraph 7.42.16 should not be used if the application is not a utility or plant application filed under 35 U.S.C. 111(a) on or after June 8, 1995, or an international application filed under 35 U.S.C. 363 on or after June 8, 1995. In that situation, a "Notice of Improper Request for Continued Examination (RCE)," Form PTO-2051, should be prepared and mailed by the technical support personnel to notify applicant that continued examination does not apply to the application. When the time for seeking court review has passed without such review being sought, the examiner must take up the

## Electronic Acknowledgement Receipt

<b>EFS ID:</b>	6715529
<b>Application Number:</b>	09824404
<b>International Application Number:</b>	
<b>Confirmation Number:</b>	8833
<b>Title of Invention:</b>	Universal asset and relationship manager
<b>First Named Inventor/Applicant Name:</b>	Peter Kassan
<b>Customer Number:</b>	02352
<b>Filer:</b>	Max Moskowitz/Carol Kupferberg
<b>Filer Authorized By:</b>	Max Moskowitz
<b>Attorney Docket Number:</b>	P/1318-134
<b>Receipt Date:</b>	28-DEC-2009
<b>Filing Date:</b>	02-APR-2001
<b>Time Stamp:</b>	17:52:05
<b>Application Type:</b>	Utility under 35 USC 111(a)

### Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	\$405
RAM confirmation Number	4788
Deposit Account	
Authorized User	

### File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
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1	Request for Continued Examination (RCE)	01103786.pdf	45975 e09fa6f9c3d81947a0d2750f622237011a3c88784	no	2
<b>Warnings:</b>					
This is not a USPTO supplied RCE SB30 form.					
<b>Information:</b>					
2		01103785.pdf	292031 1d40702378a46592a0d0c344f936431580f0e2030	yes	8
<b>Multipart Description/PDF files in .zip description</b>					
<b>Document Description</b>		<b>Start</b>	<b>End</b>		
Amendment/Argument after BPAI Decision		1	2		
Claims		3	7		
Applicant Arguments/Remarks Made in an Amendment		8	8		
<b>Warnings:</b>					
<b>Information:</b>					
3	Fee Worksheet (PTO-875)	fee-info.pdf	30146 1d05459072f7a33c34cb7f0cca8a6c8b0f3ec88a	no	2
<b>Warnings:</b>					
<b>Information:</b>					
<b>Total Files Size (in bytes):</b>				368152	
<p>This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.</p> <p><b>New Applications Under 35 U.S.C. 111</b>          If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.</p> <p><b>National Stage of an International Application under 35 U.S.C. 371</b>          If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.</p> <p><b>New International Application Filed with the USPTO as a Receiving Office</b>          If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.</p>					